

**IN THE UNITED STATES DISTRICT COURT FOR
THE SOUTHERN DISTRICT OF WEST VIRGINIA**

HUNTINGTON DIVISION

JUSTIN K. BLACK,

Plaintiff,

v.

CIVIL ACTION NO. 3:22-0096

THE WEST VIRGINIA STATE POLICE,
ANTHONY CUMMINGS,
KIMBERLY PACK,
GREG LOSH,
MIKE PARDE,
EDDIE BLANDKNSHIP, and
UNKNOWN OFFICERS OF THE WEST
VIRGINIA STATE POLICE,

Defendants.

ORDER

Before the Court is Defendants' Omnibus Motions in *Limine*, ECF No. 134, Plaintiff's Response, ECF No. 156, and Defendants' Reply, ECF No. 166. Upon review, the Court **DENIES IN PART, GRANTS IN PART** Defendants' Motion.

The Court **DENIES** Defendants' Motion in *Limine* No. 14 seeking to preclude evidence, testimony, or arguments concerning Defendant Pack's polygraph licensure. Plaintiff may offer evidence of Pack's qualifications and experience. Plaintiff may also offer evidence she did not record Plaintiff's polygraph examination.

The Court **DENIES** Defendants' Motion in *Limine* No. 15 seeking to preclude evidence, testimony, or arguments about the lack of a recording of the polygraph examination. Plaintiff may provide evidence Pack failed to create or maintain the "record of the psychophysiological detection of deception chart" required under W. Va. Code R. § 42-6-8 (2007) for polygraph

examinations.


The Court **DENIES** Defendants' Motion in *Limine* No. 16 seeking to preclude evidence, testimony, or arguments concerning Plaintiff's claim for loss and diminution of income and earning capacity. Plaintiff may offer testimony about earnings he lost during his incarceration.

The Court **GRANTS** Defendants' Motion in *Limine* No. 19 seeking to preclude evidence, testimony, or arguments that Defendant Anthony Cummings was involved in an extra-marital affair or attended parties with Plaintiff's aunt and mother.

The Court **DENIES** Defendants' Motion in *Limine* No. 22 seeking to preclude evidence, testimony, or arguments about *Brady* claims and lost data or documents. Plaintiffs may provide evidence suggesting the polygraph data and tire impressions evidence was not preserved. Plaintiff may not introduce this evidence as Federal Rule of Evidence 404 character evidence.

The Court **DIRECTS** the Clerk to send a copy of this Order to counsel of record and any unrepresented parties.

ENTER: October 5, 2023



ROBERT C. CHAMBERS
UNITED STATES DISTRICT JUDGE